

**IN THE UNITED STATES DISTRICT COURT
FOR THE WESTERN DISTRICT OF PENNSYLVANIA**

<u>RYAN KERWIN,</u>)		
)		
v.)		C.A. No. 05-93Erie
)		District Judge McLaughlin
WILLIAM MCCONELL,)		Magistrate Judge Baxter
Defendant.)		

ORDER

AND NOW, this 29TH day of November, 2006;

IT IS HEREBY ORDERED that Defendant's motion for summary judgment [Document # 52] is dismissed without prejudice as there is an inconsistency as to the exhaustion of administrative remedies between the grounds argued in the motion and the supporting documents. Defendant may file a renewed motion for summary judgment within thirty days.

IT IS FURTHER ORDERED that Plaintiff's motion for summary judgment [Document # 63] is dismissed without prejudice as there is no supporting brief. Plaintiff may file a renewed motion for summary judgment within thirty days.

S/ Susan Paradise Baxter
SUSAN PARADISE BAXTER
CHIEF UNITED STATES MAGISTRATE JUDGE